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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/029,595	12/21/2001	Assaf Govari	BIO-137	6087
27777	7590	07/05/2006	EXAMINER ROY, BAISAKHI	
PHILIP S. JOHNSON JOHNSON & JOHNSON ONE JOHNSON & JOHNSON PLAZA NEW BRUNSWICK, NJ 08933-7003			ART UNIT 3737	PAPER NUMBER

DATE MAILED: 07/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1,3,4,6,8-11,13,14,16-23,25,27,28,30,32-38 and 40-47 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-22 of copending Application No. 10/173,339. Although the conflicting claims are not identical, they are not patentably distinct from each other because the copending application claims clearly anticipate the claims of this application.

Art Unit: 3737

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

4. Claims 1,3,4,6,8-11,13,14,16-23,25,27,28,30,32-38 and 40-47 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-27 of copending Application No. 10/173,197. Although the conflicting claims are not identical, they are not patentably distinct from each other because the copending application claims clearly anticipate the claims of this application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

5. Claims 1,3,4,6,8-11,13,14,16-23,25,27,28,30,32-38 and 40-47 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-17 of copending Application No. 10/173,298. Although the conflicting claims are not identical, they are not patentably distinct from each other because the copending application claims clearly anticipate the claims of this application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

Art Unit: 3737

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 3-6, 8, 12-14, 16, 20-23, 25, 27-30, 32, 36-38, 40, and 44-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gazdzinski in view of Gilboa (6380732). Gazdzinski discloses an apparatus and method for determining the position of an object within a body comprising an acoustic wave generator ([0068]), a wireless acoustic tag and a transducer fixed to the object with said tag comprising a shell defining a cavity therein and a medium contained within the shell where in response to incidence of a first acoustic wave at a first frequency, the tag emits a second acoustic wave at a second frequency different from the first frequency ([0223-0227]), inserting the object into the body ([0145]), one of more detectors adapted to detect reflected acoustic waves ([0416]), and a signal processor for determining the angular orientation and position of the object within the body and therefore capable of determining the coordinates of the object in the body ([0067] [0255] [0258]). The reference also teaches said object to have an axis ([0157]). Gazdzinski however does not explicitly teach determining six-dimensional position and orientation coordinates of the object in the body. In the same field of endeavor, Gilboa discloses a passive system and method for tracking objects within a region of interest, a non-contact method for tracking the six-dimensional position and orientation of an object relative to an external frame of reference, translation along and rotation about three orthogonal axes within a region of interest, using field generators, and sensors (abstract, col. 5 lines 22-48, col. 13 lines 20-24). It would have therefore been obvious to one of ordinary skill in the art to use the teaching by Gilboa to modify the teaching by

Art Unit: 3737

Gazdzinski for the purpose of effectively determining the six-dimensional position and orientation coordinates of an object without any physical connection to the surroundings (col. 1 lines 61-65).

8. Claims 9-11, 17-19, 33-35, and 41-43 rejected under 35 U.S.C. 103(a) as being unpatentable over Gazdzinski in view of Gilboa and further in view of Law et al.

(6,762,066). Law et al. disclose a multifaceted ultrasound transducer probe system.

Fig. 1 shows a controller 12. Fig. 5 shows a first firing face 62 and a second firing face 64 on a single transducer. These firing faces have "different focal lengths, so that the probe is capable of focusing therapeutic ultrasound energy on at least two different target volumes at different distances from the housing" (col. 6 lines 5-8), thereby having different radiation patterns. It would have therefore been obvious to one of ordinary skill in the art to use the teaching by Law et al. to modify the teaching by Gazdzinski and Gilboa for the purpose of allowing more improved precision in the selective targeting of diseased tissues (col. 5 lines 20-24).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Baisakhi Roy whose telephone number is 571-272-7139. The examiner can normally be reached on M-F (7:30 a.m. - 4p.m.).


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian L. Casler can be reached on 571-272-4956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3737

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BR

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BRIAN L. CASLER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700